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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/297,237 05/17/99 EICHINGER H

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EXAMINER

CHAVEZ, P

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 09/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/297,237

Applicant(s)
Elchinger

Examiner
Patrick J. Chavez

Group Art Unit
3635



☒ Responsive to communication(s) filed on May 17, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-19 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stairs or slide connecting the slab and floor space must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3, 9, 14, 11 and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, line 2, "with a cover plate on both sides" is unclear to the Examiner what two sides are being referred to in the claim.

Regarding claim 11, the claim positively claims a structural relationship with a building. However, the independent claim is drawn solely to a playhouse.

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Claims 9 and 14 recite the limitation "the floor space". There is insufficient antecedent basis for this limitation in the claims.

Regarding claim 17, it is unclear which adjacent parts are provided with apertures and which adjacent parts are provided with extensions.

Regarding claim 19, lines 1-2, "locking element is mounted on the surface of part so that it limits", is unclear to the Examiner as to which part has the surface mounted locking element.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

5. Claims 1-3, 5-9, 10-11 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Vinson (US Patent 4,262,900).

In Figures 1 and 3, Vinson reveals a playhouse made from prefabricated parts comprising: a slab, 42, with a side rail, wherein the slab is resting on supporting posts, 38, and connected to a level framework.

In regards to claims 5-9, the supporting posts 38 are plate like bodies that have a cross section that is bent and are placed on an end face along member 40, as seen in Figure 1. Also revealed is a recess/channel within the supporting posts.

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Regarding claim 10, "playground set is shown made up of a tree house 10 which may be of wood, plastic, metal or the like", column 2, lines 8-10. The Examiner contends that 'or the like' encompasses compressed straw with a binding agent.

Regarding claim 14, a slide 12 is shown connecting the ground with the slab.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson.

Vinson teaches of a playhouse as discussed above, but does not explicitly show the slab to be of a hexagon shape or show the slab to have a guide rail acting as a fastening member. Regarding the shape of the slab, in light of the specification, no level of criticality has been established for the hexagon shaped slab. The Examiner contends that the shape is purely of a matter of design choice. Furthermore, the '900 reference does state "supports 38 may be anchored in the ground or in concrete, if desired, and tree house floor 42", column 2, lines 24-25. It would be a matter of obviousness to one having ordinary skill in the art at the time the

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invention was made to use the perimeter frame members of the slab as a guiding rail for anchoring the supporting posts.

8. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson in view of Ahrens (US Patent 4,447,055).

Vinson teaches of a playhouse as discussed above, but does not teach of plug and hook connections between elements with a locking element. However, Ahrens teaches of a playhouse structure with members having apertures, 24, in which extensions protrude through, 72 and 76. Also shown in Figure 4 is a locking element, 74, mounted on the surface of a member, 14, and a clear diameter, 78, corresponding to the shaft diameter, 76, of the extension.. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the playhouse of Vinson with the connection means of Ahrens so as to provide a more secure playhouse.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Chavez whose telephone number is (703) 306-5706.


PJC


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

September 18, 2000